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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,817	01/29/2004	Hans Rauch	71549-004	6616

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HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,817

Applicant(s)

RAUCH, HANS

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

HC

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 15 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: a cab is recited.

Since applicant has received an action on the merits for the originally presented invention (i.e. having no cab), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 15 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

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Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Arnold (4370846).

Prior art discloses:

cl. 1 as now amended, and new claim 16:

a harvesting machine (fig 2, 6-9, mower 10) comprising:

at least two intake units each having at least one cutting elements (reel cutting 30; it is noted that the claim functionally recites "rotatable" therefore, it has not been given patentable weight because it is narrative in form; but also, it is noted that patent 4135349 cited by Arnold, as known, thereby incorporated reference, as disclosing an alternative mower type utilized by gang mowers, in this case rotatable about a generally vertically axis);

at least one outer support element to which the cutting element is fastened (180a) operatively mounted on at least one intermediate support element (168a) at least one first apparatus (164a) pivoting a first direction in raised position (fig 9);

at least one second apparatus (chain 202a, however the pivot pin at 182a also used for pivoting the outer support element) pivoting the outer support element

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about an outer pivot axis in a direction opposite the first direction in raised position;

the outer pivoting axis as shown in figs 6-9 is generally positioned in the direction of travel of the machine (20);

cl. 2, as now amended:

in front of the harvesting (mower) machine (fig 10) a base support element (12);

cl. 3, as now amended:

in a transporting position (raised, fig 9) the base support element extends generally across the entire width of the harvesting machine (fig 9);

cl. 5, as now amended:

a second intermediate support element (168b), a second outer support element (180b) are provided on a lateral side of a base support element (12) on opposite side from the at least one intermediate & outer support elements (recited in claim 1), see fig 6);

cl. 6, as now amended:

the first apparatus is operative for pivoting the at least one intermediate support element inwardly to a transporting position (fig 9);

cl. 7, as now amended:

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the second apparatus is operative to pivot the outer support element through 180 degrees with respect to the at least one intermediate support element (although it is functionally cited, however in fig 2, it is shown that the outer support element capable of pivoting about 180 degrees);

cl. 8, as now amended:

this claim refers depends from cl. 2 & 1, which claims recite "at least one ..."

therefore, intermediate member can be such as shown in fig 6-10, ref 110a &

already cited 168a, thus the intermediate member includes mower / cutting

element 26a, outer element cutting element 24a, base element cutting element 28;

cl. 9, 14, as now amended:

in raised / transport position (fig 9) between the outer & intermediate support elements do not block field view;

cl. 10, as now amended:

in working position the outer pivot axis is located close to the ground between the intermediate & out support elements (fig 6, about 182a);

cl. 11, as now amended:

rear walls of intermediate & outer support elements (at 184a) abut one another generally over their entire height in a working position (fig 6);

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cl. 12, as now amended:

the base rear wall (at 174a), and rear walls of intermediate & outer support elements (at 184a) have adjacent ends respectively & extend downwardly in a working position (fig 6) to a location between a top and bottom of the rear walls;

cl. 13, as now amended:

as shown in fig 6, the first pivot axis is in the upper half of the rear walls (see fig 2, at 182a).

Response to Arguments

4. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6109012, 4449590, 4126189.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK